REMARKS / DISCUSSION OF ISSUES

The present amendment is submitted in response to the Office Action mailed October 17, 2008. In view of the remarks to follow, reconsideration and allowance of this application are respectfully requested.

Status of the Claims

Claims 1-29 are pending in this application. Claims 1, 7-13, 15-19 and 21-29 have been amended. Claims 3-6, 14 and 20 have been cancelled without prejudice or disclaimer. The claims in general are amended for one or more non-statutory reasons, for example to correct one or more informalities or obvious errors, remove figure label numbers, remove unnecessary limitations, and/or replace European claim phraseology with U.S. claim language having the same meaning. The claims are not believed to be narrowed in scope and no new matter is added.

Drawing Objection

In the Office Action, the drawings were objected to for failing to comply with 37 CFR 1.84 (p) (5)21(d) because the drawings do not include reference signs "32d" and "32e". Applicants respectfully request withdrawal of the drawings objection and approval of the enclosed proposed drawing change including a proper labeling of reference signs "32d" and "32e" in FIG. 3.

Rejections under 35 U.S.C. §102(b)

In the Office Action, Claims 1-4 and 6-29 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,636,689 ("Stebbings"). Claims 3-6, 14 and 20 have been cancelled without prejudice or disclaimer. Applicant respectfully traverses the remainder of the rejections.

It is axiomatic that anticipation of a claim under 35 U.S.C. §102(b) can be found only if the prior art reference discloses every element of the claim. See In re King 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co. 730 F. 2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

Claims 1-2, 7-10 are allowable

The cited portions of Stebbings do not anticipate claim 1 because the cited portions of Stebbings do not teach every element of claim 1. For example, the cited portions of Stebbings do not disclose or suggest, "*wherein said asymmetry is obtained through a choice of code words during said coding*", as in claim 1. In contrast to claim 1, Stebbing teaches various approaches for varying the physical characteristics of the disc. These approaches include, for example, Pit Depth modulation (See Stebbing, col. 18, line 25 – col. 21, line 14); Pit Track Modulation (See Stebbing, col. 20, line 15 – col. 21, line 14); and Pit Width Modulation (See Stebbing, col. 21, line 15 – col. 22, line 54). Pit Depth Modulation comprises applying extra pit depth in designated areas of a disc. Pit Track Modulation comprises modulating a grouping of pits in such a way that the grouping is shifted, within predetermined tolerance ranges, to the left (or right) of actual data for the grouping of pits. Pit Width Modulation comprises modulating the width of the pits resulting in voltages that rise above normal levels.

In contrast to Stebbing, the present invention teaches a unique an novel approach for varying the physical characteristics of the disc **based on coding** to introduce assymetry in a group of channel bits. In a approach based on coding for introducing assymetry in a group of channel bits, a different pattern of bits is produced compared to a conventional situation. That is, in a conventional situation, a group of normal non-modulated channel bits comprises, for example, a series of short alternations of lands and marks. By way of comparison, in a coding approach, a modulated group of channel bits comprises **a different pattern of bits**, represented by shorter duration marks, as compared to the more conventional corresponding longer duration marks, and longer duration lands, when compared to the more conventional shorter duration lands. Consequently, the DC content curve rises above zero to some positive value. As described in the specification at paragraph 183, **replacement code words are used after coding** by replacing code words with code words that do normally not occur in any data stream to control DC content. It is respectfully submitted that the approaches taught by Stebbing including Pit Width Modulation, Pit Depth Modulation and Pit Track Modulation are different from the coding approach of the invention. Thus, the cited portions of Stebbing do not disclose or suggest, "*wherein said asymmetry is obtained through a choice of code words during said coding*", as in claim 1. Hence claim 1 is allowable.

Claims 2 and 7-10 depend from claim 1, and are therefore allowable at least by virtue of their dependence from allowable claim 1.

B. Claims 11-13, 15-19 and 21-29 are allowable

Independent Claims 11, 17, 23, 27 and 29 recite similar subject matter as Independent Claim 1 and therefore contain the limitations of Claim 1. Hence, for at least the same reasons given for Claim 1, Claims 11, 17, 23, 27 and 29 are believed to recite statutory subject matter under 35 USC 102(b).

Claims 12-16, { 18-19 & 21-22 }, 24-26 and 28 depend from claims 11, 17, 23, 27 and 29, respectively, which Applicants have shown to be allowable. Hence the cited portions of Stebbing fail to disclose at least one element of claims 12-16, { 18-19 & 21-22 }, 24-26 and 28. Accordingly, claims 12-16, { 18-19 & 21-22 }, 24-26 and 28 are also allowable, at least by virtue of their respective dependence from claims 11, 17, 23, 27 and 29.

Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1-2, 7-13, 15-19, and 21-29 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Mike Belk, Esq., Intellectual Property Counsel, Philips Electronics North America, at 914-945-6000.

Respectfully submitted,

Michael A. Scaturro
Reg. No. 51,356
Attorney for Applicant

Mailing Address:
Intellectual Property Counsel
Philips Electronics North America Corp.
P.O. Box 3001
345 Scarborough Road
Briarcliff Manor, New York 10510-8001